IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE S.SIRI JAGAN

TUESDAY, THE 25TH SEPTEMBER 2007 / 3RD ASWINA 1929

WP(C).No. 19895 of 2006(R)

PETITIONER:

A.ANILKUMAR, LPSA,
A.M.L.P.SCHOOL, VENNAYUR, PALLICKAL,
MALAPPURAM.

BY ADV. SRI.K.JAJU BABU
SMT.M.U.VIJAYALAKSHMI

RESPONDENTS:

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1. STATE OF KERALA, REPRESENTED BY
SECRETARY TO GOVERNMENT, GENERAL EDUCATION
DEPARTMENT, GOVERNMENT SECRETARIAT,
TRIVANDRUM.

2. THE DIRECTOR OF PUBLIC INSTRUCTION,
TRIVANDRUM.

3. THE ASSISTANT EDUCATIONAL OFFICER,
KONDOTTY, MALAPPURAM DISTRICT.

4. THE MANAGER, A.M.L.P.SCHOOL,
VENNAYUR, PALLICKAL, MALAPPURAM DISTRICT.

BY GOVERNMENT PLEADER SRI.T.T. MOHAMMED

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 25/09/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

APPENDIX

EXT.P1: TRUE COPY OF PROCEEDINGS NO.D/6381/04/K/DIS. DATED 23.8.04 ISSUED BY THE 3RD RESPONDENT.

EXT.P2: TRUE COPY OF THE PETITION SUBMITTED BY THE 4TH RESPONDENT BEFORE THE 2ND RESPONDENT DATED 6.9.2004.

EXT.P3: TRUE COPY OF THE ORDER NO.K.DIS.G2-93762/2004/DPI DATED 3.1.2005 ISSUED BY THE 2ND RESPONDENT.

EXT.P4: TRUE COPY OF REVISION SUBMITTED BY THE 4TH RESPONDENT BEFORE THE 1S RESPONDENT DATED 31.1.05.

EXT.P5: TRUE COPY OF COMMUNICATION NO.71460/B1/05/GE DATED 16.6.2006 ISSUED BY THE 1ST RESPONDENT TO THE 4TH RESPONDENT.

EXT.P6: TRUE COPY OF ORDER NO.G2-61447/05/DPI/D.DIS. DATED 21.6.2006 ISSUED BY THE 2ND RESPONDENT.

TRUE COPY

PA TO JUDGE.

S. SIRI JAGAN, J.

W.P.(C)No.19895 OF 2006

Dated this the 25th day of September, 2007

JUDGMENT

The petitioner has approved service as Lower Primary School Assistant under the 4th respondent from 15.7.200 onwards. Although there was a division fall for the years 2001-2002 and 2002-2003 applying the teacher-student ratio of 1:40 the petitioner was retained in service. From the academic year 2003-2004, students' ratio of 1:45 was satisfied and a new post was sanctioned. However, the period of service from 1.5.03 to 14.7.03 is not reckoned and the petitioner is not paid salary for the said period. The petitioner, therefore, seeks the following reliefs.

> "i) issue a writ of certiorari or other appropriate writ, order or direction calling for the records leading to Exts.P1, P3 and P5 and quash the same to the extent they deny continuity in service and salary for the period between 1.5.03 to 14.7.03.
>
> ii) issue a writ of mandamus or other appropriate writ order or direction, directing the respondents to regularise the service of the petitioner between 1.5.03 and 14.7.03 and disburse his salary for the said period forthwith;

> iii) declare that denial of benefit of Ext.P6 to the petitioner as per Exts.P1,P3 and P5 is discriminatory and unconstitutional;"

2. I have heard the learned Government pleader also. The learned Government pleader on instructions submits that the petitioner is entitled to regularization of service from 1.5.03 to 14.7.03 also and he is entitled to service benefits for the said period also.

3. In the above circumstances, I direct the 3rd respondent to pass appropriate orders in the matter so as to enable the petitioner to receive salary and other benefits for the said period also. This shall be done within a period of one month from the date of receipt of a copy of this judgment.

The writ petition is disposed of as above.

S. SIRI JAGAN, JUDGE

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